

IFP x4  
DATES

JOHN SAIN, Pro Se  
TDCJ ID# 01373168  
O.L. Luther Unit (P2)  
1800 Luther Dr.  
Navasota, TX 77868-4714

RECEIVED IN CHAMBERS

SEP 30 2019

LEE H. ROSENTHAL  
CHIEF U.S. DISTRICT JUDGE

September 23, 2019  
Clerk of Courts  
515 Rusk Street  
Houston, Tx 77002

or

Clerk of Courts  
P.O. Box 61010  
Houston, Tx 77208

Re: Civil Action No. 4:18-cv-04412

Style: Plaintiffs' Motion and Notice

Dear Clerk,

Please find included and file the below:

**PLAINTIFFS' MOTION REQUESTING LEAVE OF COURT TO APPEAL IN FORMA  
PAUPERIS**

Please bring these filings to the attention of the Court for a hearing and rulings.

Thank you for your assistance filing and initiating this Motion.

For questions and immediate assistance filing, please phone Tim Sain @ 817-307-9087 or @  
T.Sain@yahoo.com

I can be contacted at the address listed above.

Respectfully,



JOHN SAIN, Pro Se

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JOHN SAIN, et al.,	§	
	§	CIVIL ACTION NO.
Plaintiffs,	§	4:18-cv-04412
v.	§	
	§	
BRYAN COLLIER, et al.,	§	
	§	
Defendants.	§	

**PLAINTIFFS' MOTION REQUESTING LEAVE OF COURT TO APPEAL IN FORMA  
PAUPERIS**

TO THE HONORABLE JUDGE OF SAID COURT...

Now comes the above-named Plaintiffs' in the above styled and numbered civil action, each in their individual capacity and as a Class, pursuant to 28 U.S.C. § 1915 Requesting Leave of The Court to Proceed In Forma Pauperis.

This is a suit brought by Texas State Inmates against the Director of The Texas Department of Criminal Justice (TDCJ) and all named Defendants under 28 U.S.C. § 1983. The Plaintiffs have filed a complaint redressing TDCJ's cruel and unusual punishment of inmates, specifically TDCJ's gross indifference to the extreme heat conditions which exist in the inmate housing, work, program, and service areas.

Plaintiffs, upon filing this suit November 20, 2018, organized the funds to pay the filing fee in full. This one-time event was accomplished through the gift of a Plaintiffs relative. The Plaintiffs wholly exhausted their financial resources when they paid the filing and therefore the

named Plaintiffs have not and do not possess the means to contribute and fund the expenses necessary to retain Legal Counsel in this very complicated and complex suit nor to gather and retain expert witnesses whom will verify the Constitutional violations the Defendants force upon the inmates at the Luther Unit.

Because of the named Plaintiffs financial status as shown in the attached In Forma Pauperis data sheets, Plaintiffs respectfully request the Court to allow them to proceed In Forma Pauperis in the litigation from this point forward.

Plaintiffs present for the Court's consideration their individual In Forma Pauperis data sheet and six-month TDCJ Trust Fund Financial Statements.

Attachment A – John Sain

Attachment B – David Cummings

Attachment C – Phillip Gullett

Attachment D – David Wilson

#### **RELIEF REQUESTED**

Based upon their incarceration and inability to pay cost the Plaintiffs request the Court to allow them to Proceed In Forma Pauperis.

#### **PRAYER**

Premises considered, Plaintiffs pray that this Honorable Court having found good cause will grant Plaintiffs' Motion and any additional relief the Court may deem appropriate in order that they may be able to effectively redress their Constitutional claims.

Direct the Clerk to provide a copy of the Court's Order to all parties.

Respectfully Submitted,

Dated: September 23, 2019

### **CERTIFICATE OF CONFERENCE**

Whereby their signatures below, Plaintiffs do hereby certify/declare that a conference is not possible because Plaintiffs are incarcerated in Texas Department of Criminal Justice, Institutional Division, and are proceeding Pro Se in this cause. Plaintiffs will not speculate on whether the Defendants oppose this motion.

### **CERTIFICATE OF SERVICE**

Whereby their signatures below, Plaintiffs do hereby certify/declare that true and correct copies of the foregoing document was forwarded via U.S. First Class Mail, postage pre-paid, to the following parties:

- a. Bryan Collier  
TDCJ Executive Director  
Texas Department of Criminal Justice
- b. James McKee  
Warden  
O.L Luther Unit (P2)
- c. Texas Department of Criminal Justice  
c/o Bryan Collier  
TDCJ Executive Director

Service was perfected to the above Defendants through their Attorneys of Record for Service:

**Todd Disher**

Attorney In Charge  
Office of Attorney General of Texas  
209 W 14<sup>th</sup>, 8<sup>th</sup> Floor  
Austin, TX 78701

**Leah Jean O'Leary**

Office of the Attorney General  
Law Enforcement Defense Division  
P.O. Box 12548 Capital Station  
Austin, TX 78711-2548

### **CERTIFICATE OF MAILING**

Whereby their signatures below, Plaintiffs do hereby certify/declare that the foregoing document was delivered to the United States Post Office for processing (U.S. First Class postage, pre-paid).

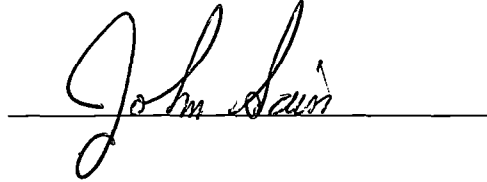
Pursuant to Fed. R. App. P. Rule 25 (a)(2)(A)(iii), "Mailbox Rule," Pro se documents filed at the time they are placed in the institutional mailing system for processing.

### **INMATE DECLARATION**

We, the Plaintiffs listed below, being over 18 years of age, of sound mind, capable of making this declaration due to the facts that we: suffer from and/or experience(d) one or more of the conditions described; attended consultations with qualified medical and other professionals; having been trained by medical personnel to recognize and treat complications due to illness/heat/cold; having studied materials listed under Fed. R. Civ. P. Rule 902; through our personal observations; and due to belief and empirical knowledge that the facts stated above; pursuant to 28 U.S.C. § 1746, do hereby declare under penalty of perjury that the foregoing is true and correct from personal knowledge.

Executed on September 23, 2019


JOHN SAIN, Pro Se  
TDCJ ID# 01373168  
O.L. Luther Unit (P2)  
1800 Luther Dr.  
Navasota, TX 77868-4714

A handwritten signature in black ink, appearing to read "John Sain", written over a horizontal line.

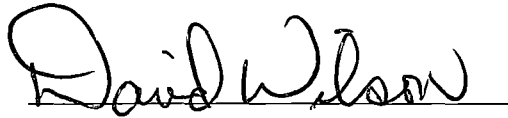
DAVID CUMMINGS, Pro Se  
TDCJ ID# 02153663  
O.L. Luther Unit (P2)  
1800 Luther Dr.  
Navasota, TX 77868-4714

A handwritten signature in black ink, appearing to read "David Cummings", written over a horizontal line.

PHILLIP GULLETT, Pro Se  
TDCJ ID# 01672020  
O.L. Luther Unit (P2)  
1800 Luther Dr.  
Navasota, TX 77868-4714

A handwritten signature in black ink, appearing to read "Phillip Gullett", written over a horizontal line.

DAVID WILSON, Pro Se  
TDCJ ID# 01648044  
O.L. Luther Unit (P2)  
1800 Luther Dr.  
Navasota, TX 77868-4714

A handwritten signature in black ink, appearing to read "David Wilson", written over a horizontal line.